

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

MAURO CARDENAS

VS.

**MARTIN TRANSPORTATION
SYSTEMS, INC. AND DAVE M.
CVITANOVICH**

CIVIL ACTION No.: 5:17-CV-137

JURY DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT & JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff files Plaintiff's Original Complaint, complaining of Defendants, Martin Transportation Systems, Inc. and Dave M. Cvitanovich. For cause of action, Plaintiff would show the Honorable Court as follows:

I.

PARTIES

- 1.1 Plaintiff Mauro Cardenas is an individual residing in Texas.
- 1.2 Defendant, Martin Transportation Systems, Inc. is a federal motor carrier with a terminal located in Laredo, Texas. It may be served with citation by serving its registered agent for service of process CT Corporation Systems, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.
- 1.3 Defendant, Dave M. Cvitanovich is an individual residing in Arizona and may be served with process at 1773 West Crimson Clover Lane, Tucson, Arizona 85704.

II.

JURISDICTION

- 2.1 Plaintiff brings this lawsuit under 28 U.S.C. Section 1332 (a)(2).

III.

VENUE

- 3.1 Venue is proper in the Southern District of Texas, Laredo Division because all or a substantial part of the acts and omissions giving rise to this lawsuit occurred in the district pursuant to 28 U.S.C. Section 1402(b).

IV.

FACTS

- 4.1 Defendant Martin Transportation Systems, Inc. is a motor carrier licensed by and registered with the Federal Motor Carrier Safety Administration, which has conducted systematic, continuous business activities within Texas at its terminal located in Laredo, Texas..
- 4.2 Defendant Martin Transportation Systems, Inc. hired, qualified, trained, and retained Dave M. Cvitanovich as a truck driver.
- 4.3 At all times relevant to this lawsuit, Defendant Dave M. Cvitanovich was acting in the course and scope of his actual and/or statutory employment with Defendant Martin Transportation Systems, Inc.
- 4.4 On or about November 4, 2015 Plaintiff was involved in a motor vehicle collision with a tractor trailer rig driven by Dave M. Cvitanovich.
- 4.5 Dave M. Cvitanovich failed to pay attention, failed to control his speed, failed to timely apply his brakes or take evasive action, and struck Plaintiffs' vehicle.
- 4.6 Plaintiff was injured and suffered damages as a result of the collision.

V.

CAUSE OF ACTION

- 5.1 Defendant Dave M. Cvitanovich was negligent in the operation of the Martin Transportation Systems, Inc. tractor trailer.
- 5.2 Specifically, Defendant Dave M. Cvitanovich failed pay attention, failed to control his speed, and failed to apply his brakes and/or take evasive action to avoid striking Plaintiff's vehicle.

- 5.3 As a direct and proximate result of Defendants' negligence, Plaintiff sustained personal injuries and damages.
- 5.4 Defendant Martin Transportation Systems, Inc. is vicariously liable for the negligence of Defendant Dave M. Cvitanovich under the statutory employment doctrine as well as the doctrine of respondeat superior.
- 5.5 Based on the facts of this wreck, Defendant Dave M. Cvitanovich may have been fatigued or driving in violation of federal and state hours-of-service regulations.
- 5.6 It further appears that Defendant Martin Transportation Systems, Inc. may have been negligent in its entrustment of a tractor-trailer to Defendant Dave M. Cvitanovich, and in the qualification, hiring, training, supervision, and retention of Defendant Dave M. Cvitanovich.

VI.

DAMAGES

- 6.1 Plaintiff seeks to recover the following elements of damages, which were proximately caused by Defendants' negligence:
 - A. Medical care, past and future;
 - B. Lost wages and earning capacity, past and future;
 - C. Physical impairment, past and future;
 - D. Physical pain, emotional distress, and mental anguish, past and future; and
 - E. Disfigurement, past and future.
- 6.2 Plaintiff also seeks to recover prejudgment interest, post-judgment interest, and court costs
- 6.3 Plaintiff's damages exceed \$75,000.
- 6.4 Plaintiff seeks compensatory damages in excess of \$1,000,000.

XI.

JURY DEMAND AND PRAYER

Plaintiff respectfully requests a jury trial in this matter.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that citation be issued and Defendants be served, and upon trial on the merits the Court enter judgment for Plaintiff and against Defendants, jointly and severally, for actual damages, together with prejudgment interest, postjudgment interest, and court costs.

Respectfully submitted,

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